

Before Krishan Murari, CJ & Arun Palli, J.

GURPREET SINGH AND ANOTHER—Appellants

versus

STATE OF PUNJAB AND OTHERS—Respondents

LPA No.1453 of 2019

September 17, 2019

Letters Patent—Clause X—Selection—Post of Intelligence Assistant—prescribed educational qualification was graduate with ‘O’ Level certificate of Information Technology from DOEACC or NIELIT or its equivalent government recognized institution—Appellants possessed B.Sc. degree with computer as a subject which they claimed equivalent to the prescribed qualification—Candidature rejected being ineligible—Held, the ‘O’ Level certificate of Information Technology is a specialized course in the field of computer education and cannot be held equivalent to computer science studied as a general subject from any University or Institute—Even if the appellants’ qualification is presumed to be higher than the prescribed qualification, they cannot be held eligible since the department found it fit to prescribe a particular qualification obtained from a specific institution—Reliance placed on the Full Bench judgment in Manjit Singh Case was also found to be misplaced, as it had held that candidates possessing higher qualification ‘in the same line and discipline’ could not be excluded from selection—Thus, cancellation of appellants’ candidature being ineligible cannot be faulted with.

Held that, admittedly, in the case in hand the appellants petitioners cannot be held to be possessing better and higher qualification in the same line and discipline, rather they are claiming equivalence on the basis of parameters conceived by themselves. It cannot be disputed that the equivalence is to be considered and granted by the respondent-authorities and cannot be claimed by the appellants-petitioners themselves as a matter of right. It is to be taken note of that selection process was conducted by a State level Direct Recruitment Board comprising senior officers, who considered the qualification as per the advertisement and, having found that the appellants-petitioners do not possess either the prescribed qualification or higher qualification in the same stream and the qualification they possess cannot be equated with the prescribed qualification, rejected their candidature. ‘O’ Level

Certificate of Information Technology from the Department of Electronics Accreditation of Computer Course (DOEACC) or National Institute of Electronics and Information Technology (NIELIT) is a specialised course in the field of computer education and, definitely, it cannot be held equivalent to computer science studied as a general subject from any institute or university. Whether the two can be considered equivalent or the latter qualification as higher is no longer *res integra* and stands settled by a decision of the Hon'ble Apex Court in the case of *Yogesh Kumar vs. Government of NCT, (2003) 3 SCC 548*.

(Para 10)

Further held that, in the light of the pronouncement of the Hon'ble Apex Court, even if for the sake of argument, it is accepted, as suggested by learned counsel for the appellants, that the qualification held by the appellants is higher than the prescribed qualification, even then since under the recruitment policy the respondent-department found it fit to prescribe a particular qualification obtained from a specific institution or equivalent institution recognized by Government of India or by any State Government, the appellants cannot be held eligible for the vacancies advertised with prescribed qualification.

(Para 11)

Harinder Sharma, Advocate
for the appellants

KRISHNA MURARI, CHIEF JUSTICE oral

(1) Delay in filing the appeals is condoned for the reasons mentioned in delay condonation applications and the same stand disposed of.

(2) These three intra-Court appeals filed under clause -X of the Letters Patent are directed against a common judgment of the learned single Judge dated 06.06.2019. Since all the three appeals are based on identical set of facts raising common questions of law, hence, have been heard together and are being disposed of by this common judgment.

(3) Facts, in brief, for adjudication of the controversy can be summarised as under.

(4) Respondent-department issued advertisement dated 01.09.2016 inviting applications for recruitment to the posts of

Intelligence Assistant (Male & Female) in the rank of Constable in the Intelligence Wing of Punjab Police. The advertisement prescribed the requisite educational qualifications, which read as under: -

“C. EDUCATIONAL QUALIFICATIONS:

The minimum educational qualification for direct recruitment as Intelligence Assistants (in rank of Constables) shall be as defined in Appendix 'B' (Sr. No.04) of Punjab Intelligence Cadre (Group C) Service Rules, 2015 as amended by the Punjab Intelligence Cadre (Group C) Service (First Amendment) Rules, 2016:

(b) Should be a graduate from a recognized university or institution, as the case may be, provided that such candidate should also possess an 'O' Level Certificate of Information Technology from Department for Electronics Accreditation of Computer Course (DOEACC) or National Institutes of Electronics and Information Technology (NIELT) or its equivalent institution recognized by the Government of India or any State Government.

(b) B.Sc/B.Tech/BE in Information Technology or Computer Science or Information Systems or B.C.A. or Post Graduate Diploma in Computer Applications from a recognized university or institution, as the case may be.”

(5) The appellants/petitioners were also applicants for the said posts. They got a call for physical test and provisional admit cards were also issued. It is also claimed that all of them appeared in the written examination, which was scheduled on 19.11.2016. It is alleged that subsequently, they were informed that their candidature has not been accepted as they were not found eligible for want of necessary qualification.

(6) It is an admitted case of the appellants that they do not possess the prescribed qualification, which was advertised. Their claim is based on the fact that the qualification which they possess is not only equivalent but higher than the prescribed qualification and, therefore, their candidature has wrongly been rejected. The fact is not disputed that none of the appellants possesses 'O' Level Certificate of Information Technology from the Department of Electronics Accreditation of Computer Course (DOEACC) or National Institute of Electronics and Information Technology (NIELIT) or its equivalent

institution recognized by Government of India or any State Government.

(7) Learned counsel for the appellants vehemently contends that appellant No.1 in LPA-1453-2019 possesses B.Sc. Degree with computer as a subject from Guru Nanak Dev University, Amritsar, and the University has declared that B.Sc degree with elective subjects of Computer Science, Quantitative Technique passed from this University be recognized as equivalent with B.Sc. (Computer Science) degree . Similarly, it is contended that appellant No.2, in LPA-1453-2019, has acquired the qualification of B.A. (I.T.) from Punjabi University, Patiala, which is of much higher standard than the study of 'O' Level Certificate prescribed by the respondents. To support the contention, reliance is placed upon the syllabus of B.A. (I.T.) Course appended as Annexure A/4. It is, thus, clear that these appellants do not hold B.Sc. degree as prescribed by the rules and advertisement. With respect to rest of the appellants in other appeals, all of them hold B.Tech. degree but the same is not either in Information Technology or Computer Science or Information Systems. The learned single Judge non-suited the appellants-petitioners and dismissed their writ petitions on the ground that they do not possess the prescribed qualification and are claiming equivalence of their own which is not prescribed anywhere and that their claim is based on the parameters conceived by themselves and not by the respondent -department.

(8) Learned counsel for the appellants relying upon a Full Bench Judgment of this Court in the case of *Manjit Singh* versus *State of Punjab & others*,¹ contends that since the appellants possess higher qualification than the qualification prescribed and advertised by the respondent-department, thus, they are eligible for appointment and their candidature has wrongly and illegally been cancelled.

(9) We are afraid, the reliance placed upon the Full Bench judgment is totally mis-founded. The matter came up for consideration before the Full Bench on account of two conflicting Division Bench judgments in respect of the question – Whether the candidates who have obtained the qualification of B.P.Ed. could be considered eligible for the purpose of appointment as Physical Training Instructor (PTI) for which the qualification prescribed is Certificate in Physical Education (C.P.Ed.)? On account of diversion of opinion of two Division Benches on the aforesaid question, reference was made to a Full Bench and,

¹ 2011(1) SLR 583

considering the same, it was held that candidates possessing higher qualification in the same line cannot be excluded from selection. It was observed, in the operative part, as under: -

27. From the facts on record and dictum of above noticed judgments, it emerges that the candidate possessing higher qualification **in the same line** cannot be excluded from consideration for selection. It is a different matter that he/she may not be entitled to any additional weightage for higher qualification, but cannot be denied consideration at par with a candidate possessing minimum prescribed qualification.

Denying consideration to a candidate having better and higher qualification **in the same line and discipline** would definitely result in breach of Articles 14 and 16 of the Constitution of India."

Thus, it would be seen that the words "**in the same line and discipline**" are the determining factors.

(10) Admittedly, in the case in hand the appellants- petitioners cannot be held to be possessing better and higher qualification in the same line and discipline, rather they are claiming equivalence on the basis of parameters conceived by themselves. It cannot be disputed that the equivalence is to be considered and granted by the respondent-authorities and cannot be claimed by the appellants-petitioners themselves as a matter of right. It is to be taken note of that selection process was conducted by a State level Direct Recruitment Board comprising senior officers, who considered the qualification as per the advertisement and, having found that the appellants-petitioners do not possess either the prescribed qualification or higher qualification in the same stream and the qualification they possess cannot be equated with the prescribed qualification, rejected their candidature. 'O' Level Certificate of Information Technology from the Department of Electronics Accreditation of Computer Course (DOEACC) or National Institute of Electronics and Information Technology (NIELIT) is a specialised course in the field of computer education and, definitely, it cannot be held equivalent to computer science studied as a general subject from any institute or university. Whether the two can be considered equivalent or the latter qualification as higher is no longer *res integra* and stands settled by a decision of the Hon'ble Apex Court in the case of *Yogesh Kumar* versus *Government*

*of NCT*² in the said case, the question for consideration before the Hon'ble Apex Court was – Whether B.Ed. was higher qualification than Trained Teacher's Certificate (TTC)? The Hon'ble Apex Court, after considering the issue, answered the same as under: -

“10. We find absolutely no force in the argument advanced by the respondents that B.Ed. qualification is a higher qualification than TTC and therefore, the B.Ed. candidates should be held to be eligible to compete for the post. On behalf of the applicants, it is pointed out before us that Trained Teacher's Certificate is given to teachers specially trained to teach small children in primary classes whereas for B.Ed. degree, the training imparted is to teach students of classes above primary. B.Ed. degree holders, therefore, cannot necessarily be held to be holding qualification suitable for appointment as teachers in primary schools. Whether for a particular post, the source of recruitment should be from the candidates with TTC qualification or B.Ed. qualification, is a matter of recruitment policy. We find sufficient logic and justification in the State prescribing qualification for the post of primary teachers as only TTC and not B.Ed. Whether B.Ed. qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider B.Ed. candidates, for the present vacancies advertised, as eligible.”

(11) In the light of the pronouncement of the Hon'ble Apex Court, even if for the sake of argument, it is accepted, as suggested by learned counsel for the appellants, that the qualification held by the appellants is higher than the prescribed qualification, even then since under the recruitment policy the respondent-department found it fit to prescribe a particular qualification obtained from a specific institution or equivalent institution recognized by Government of India or by any State Government, the appellants cannot be held eligible for the vacancies advertised with prescribed qualification.

(12) In the wake of the above facts and discussion, we are of the considered opinion that with the qualifications the appellants possess they cannot be held to be having the qualification prescribed by the rules and advertisement and, thus, cancellation of their candidature as

² (2003) 3 SCC 548

being ineligible cannot be faulted with. Thus, there exists no good ground to take a view different from the one taken by the learned single Judge.

(13) The appeals are devoid of any merits and, accordingly, stand dismissed.

(14) The main appeals having been dismissed, no order need be passed in CM-3220-LPA-2019 in LPA-1468-2019 and CM-3222-2019 in LPA-1469-2019 seeking to place additional documents on record and the same also stand dismissed.

Tribhuvan Dhaiya